

No. 1-11-2963

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 10 MC 23702
)	
DAVOUD ROUEI,)	Honorable
)	Marguerite A. Quinn,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE HARRIS delivered the judgment of the court.
Justices Quinn and Simon concurred in the judgment.

ORDER

- ¶ 1 Held: We reverse defendant's conviction for obstructing a peace officer where police impermissibly prolonged the traffic stop by asking defendant for his driver's license and insurance after the lawful seizure of defendant terminated.
- ¶ 2 Following a bench trial, defendant Davoud Rouei was convicted of obstructing a peace officer, a Class A misdemeanor, and sentenced to six months' conditional discharge and ordered to complete 100 hours of community service. On appeal, defendant asserts that the evidence was insufficient to convict him of obstructing a peace officer where Officer Groberski failed to perform an authorized act when he pulled defendant over for not wearing a seatbelt, even though the record shows he was in fact wearing a seatbelt when he was stopped. We reverse.

¶ 3 Defendant's conviction stems from an incident in which he refused to comply with an officer's request to provide his driver's license and proof of insurance after the officer stopped his vehicle. At trial, Officer Groberski testified that at about 7 p.m. on August 18, 2010, he was traveling eastbound on Dempster Street in Skokie when he noticed a black Volkswagen to his left. Defendant was the driver of that vehicle. He "noticed that the driver was not wearing his seatbelt" so he got behind the Volkswagen and activated his emergency lights. As Officer Groberski was pulling over the vehicle, he saw what appeared to be the driver pulling the seatbelt strap over his shoulder "as to being put on." Officer Groberski approached the vehicle and asked defendant for his license and insurance. A prolonged argument ensued during which defendant repeatedly asked what he was stopped for, refused to comply and became agitated. Eventually, Officer Groberski asked defendant to exit the vehicle. He acknowledged that when he asked defendant to exit the vehicle, defendant was wearing a seatbelt.

¶ 4 Defendant, an Iranian-American citizen, testified that when Officer Groberski stopped him, he asked why he was being stopped but the officer instead kept asking for his license and insurance. Defendant was never informed of his violation. When Officer Groberski asked defendant to step out of his vehicle, he told defendant to unbuckle his seatbelt because defendant was buckled. Defendant also testified that he had installed a high definition video camcorder in his vehicle which was recording during the incident. The trial court and the parties had an opportunity to view the video, but without the audio component. The beginning of the video shows defendant putting on his seatbelt before driving down the street.

¶ 5 The trial court found credible Officer Groberski's testimony that he pulled over defendant's vehicle because he believed defendant was not wearing a seatbelt. The court stated, "I believe that when you look at the video, the defendant had a dark jacket on. The seat belt was dark. It is very easy to not see a seatbelt or at least for the police officer when he drove on the side of the defendant, to think that perhaps the defendant was not wearing a seatbelt." The court found that the initial stop was valid and, as such, Officer Groberski's request for defendant's

driver's license and proof of insurance was "an authorized act within his capacity as a peace officer." Therefore, defendant's adamant refusal to comply amounted to obstructing a peace officer.

¶ 6 On appeal, defendant argues that the trial court erred when it determined that Officer Groberski was performing an authorized act when he pulled him over for not wearing a seatbelt, where the record shows he was wearing a seatbelt when he was stopped.

¶ 7 The relevant question in a challenge to the sufficiency of the evidence is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Bush*, 214 Ill. 2d 318, 326 (2005). The trier of fact's verdict will not be disturbed unless it is so improbable as to leave a reasonable doubt to the defendant's guilt. *People v. Brown*, 169 Ill. 2d 132, 152 (1996). To sustain a conviction for obstructing a peace officer, the State must prove that a person knowingly obstructed the performance by someone known to the person to be a peace officer of an authorized act within his official capacity. 720 ILCS 5/31-1(a) (West 2010).

¶ 8 The stopping of a vehicle and detaining its occupants constitutes a seizure within the meaning of the Fourth Amendment. *People v. Harris*, 228 Ill. 2d 222, 235 (2008). However, a seizure that is initially lawful can become unlawful if it is prolonged past the time required to complete the purpose of the seizure. *Id.* at 238-29. Therefore, "[a]n investigative stop that is originally lawful must cease once reasonable suspicion dissipates." *People v. Cummings*, 2013 IL App (3rd) 120128, ¶ 10, *appeal allowed*, No. 115769 (May 29, 2013).

¶ 9 Here, the record reveals with certainty that defendant was wearing his seatbelt at the time the officer approached the vehicle and communicated with him. As soon as Officer Groberski realized that defendant was wearing his seatbelt, "the purpose of the investigatory stop was resolved, and any reasonable suspicion of criminal activity dissipated. At that point, the period of lawful seizure terminated, and the investigate stop should have ceased" since no Fourth Amendment justification existed for the stop. *Cummings*, 2013 IL App (3rd) 120128, ¶ 13.

¶ 10 Officer Groberski, however, impermissibly prolonged the stop by asking defendant for his driver's license and insurance, and not informing defendant of the reason for the stop. *Id.* at ¶ 18. The notion that Officer Groberski could reasonably have believed that Rouei did not have his seatbelt on because Rouei was "wearing a dark shirt and the seatbelt could have blended in" no longer applied, and the trial court's finding that Officer Groberski could continue the stop based on this suspicion was therefore against the manifest weight of the evidence. As such, the officer's request was not an authorized act and cannot be the basis for an obstructing a peace officer conviction. In so finding, we decline to follow the second and fourth appellate districts, which hold the opposite view. See *People v. Safunwa*, 299 Ill. App. 3d 707 (1998) (second district); *People v. Hernandez*, 2012 IL App (2d) 110266 (second district); *Bradley*, 292 Ill. App. 3d at 208 (fourth district); *People v. Ramsey*, 362 Ill. App. 3d 610 (2005) (fourth district); *People v. Ortiz*, 317 Ill. App. 3d 212 (2000) (fourth district); and *People v. Canizalez-Cardena*, 2012 IL App (4th) 110720.

¶ 11 The fact that defendant was wearing his seatbelt at the time of the stop could be explained by Officer Groberski's testimony that as defendant pulled over to the curb, he observed defendant pull the seatbelt strap over his shoulder "as to being put on." The trial court found Officer Groberski to be a credible witness. However, the trial court watched the video recorded by the camcorder installed in defendant's vehicle. This court also watched the video and it shows defendant pulling over to the curb and eventually coming to a stop. At no point is he pulling a seatbelt strap over his shoulder. In fact, the video shows that defendant put on his seatbelt at the beginning of his ride in the vehicle and he unbuckled himself in order to exit the vehicle after his confrontation with the police. As such, the evidence is insufficient to support a finding that defendant was not wearing a seatbelt when he was stopped, and we must reverse.

¶ 12 For the foregoing reasons, we reverse the judgment of the circuit court.

¶ 13 Reversed.